

Appl. No. 09/780,804
Customer No.: 26021
Reply to Office Action of July 2, 2004

PATENT
2048-039 (81841.0183)

REMARKS/ARGUMENTS

Claims 1 and 21 are amended. Claims 1, 2, 4-30 are pending in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

Claim Rejections Under 35 U.S.C. § 112

Claims 8, 9, 28, 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner states that claims 8, 9, 28, 29 are rendered indefinite since it is unclear how gear rack teeth and saw teeth are structurally different from each other. The Applicant respectfully traverses this rejection.

A person of ordinary skill in the art upon reading the specification would realize that saw teeth are a type of gear rack teeth. Saw teeth represent a specific structure of gear rack teeth and therefore, the claims are not indefinite. Withdrawal of this rejection is thus respectfully requested.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 2, 4-7, 21-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,598,393 to Mater. The Applicant respectfully traverses this rejection.

Claim 1, as amended, is as follows:

An apparatus for piercing container caps, comprising:

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- a) a piercing blade having a longitudinal axis and a zigzagged cross-section that is perpendicular to said axis;
- b) an alignment arm for moving said blade in a linear motion along said longitudinal axis to pierce a cap on a container, comprising a carriage assembly for moving said alignment arm, wherein movement of said blade is limited to said longitudinal axis; and
means for driving said carriage assembly.

The Examiner in her response to the Applicant's arguments filed 3/16/2004 states,

"Examiner maintains that Mater does teach an alignment arm for moving the blade in a linear motion. Mater not only relies on a rotation motion for drilling but also a linear motion to push the drill bit into the pole to make a hole through the entire length of the pole."
(July 2, 2004 Office Action, page 8, paragraph 10)

Mater cannot anticipate claim 1 because Mater fails to teach that the movement of the blade is limited to the blade's longitudinal axis. Claim 1 was amended to clarify that the movement of the blade in the present invention is limited to linear motion along the longitudinal axis. Mater, in contrast, relies on rotation motion, in addition to linear motion to move the drill bit.

Mater cannot render claim 1 obvious because Mater fails to teach or suggest that the movement of the blade is limited to the blade's longitudinal axis. On the contrary, as acknowledged by the Examiner, Mater requires a rotation motion for drilling a drill bit into a pole. Thus, Mater teaches away from the present invention. It is a discovery of the present invention that the mechanical latch assembly provides reliability and consistency for the cap piercing cycles without

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utilizing or modifying any electronic components. It also provides more reliable obstruction detection and fewer motion errors. (Applicant's specification, at page 9, lines 7-9). The Z-shaped blade also cuts through the tube caps more easily and with less stretching of the elastomer, resulting in more consistent cut size and better venting. (Applicant's specification, at page 9, lines 4-6). Thus, by limiting the movement of the blade to the blade's longitudinal axis, motion errors and stretching of the cap elastomer is minimized.

In light of the foregoing, Applicant respectfully submits that Mater could not have anticipated or rendered obvious claim 1, because Mater fails to teach or suggest each and every claim limitation. Claims 2 and 4-7 depend from claim 1 and cannot be anticipated or rendered obvious for at least the same reasons as claim 1. Withdrawal of these rejections is thus respectfully requested.

Claims 21-27, likewise, have the limitation that the movement of the blade is limited to the blade's longitudinal axis. Therefore, these claims are patentable over Mater for the same reasons discussed above. Withdrawal of these rejections is thus respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claims 8, 9, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,598,393 to Mater in view of U.S. Patent No. 3,310,990 to Zettel or U.S. Patent No. 3,273,248 to Halverstadt or U.S. Patent No. 1,485,460 to Johnston.

Claims 8-9 and 28-29 depend from amended claims 1 and 21, respectively, and therefore, cannot be rendered obvious over Mater for the same reasons discussed above. Zettel, Halverstadt, and Johnston cannot remedy the defect of

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Mater and none of the three references are relied upon by the Examiner for such. Instead, the Examiner cites the three references for teaching the use of gear rack teeth or saw teeth to securely hold two structures together.

In light of the foregoing, Applicant respectfully submits that the cited references could not have made claims 8-9 and 28-29 obvious, because the combination of references fails to teach or suggest each and every claim limitation. Withdrawal of this rejection is thus respectfully requested.

Claims 10 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,598,393 to Mater.

Claims 10 and 30 depend from amended claims 1 and 21, respectively, and as such include all the limitations of claims 1 and 21, and therefore, cannot be rendered obvious over Mater for the same reasons discussed above. Withdrawal of this rejection is thus respectfully requested.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6700 to discuss the steps necessary for placing the application in condition for allowance.

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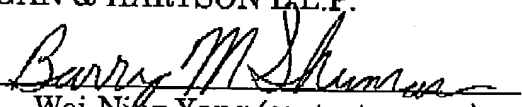
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If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,
HOGAN & HARTSON L.L.P.

Date: September 28, 2004

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